Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

October Term 199

Troy E. Brooks,
Petitioner,

--against--

Erica Bodwell, et al
Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE NEW HAMPSHIRE SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

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29 pp

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Omnibus provision of Section 1503, the federal obstruction of justice statute, should be "waived" in state court's, in litigation-related endeavors, by attorney's with a degree of professionalism emblematic of the profession of practicing law , but not of, abiding by the laws?

2. Does the First Amendment permit the "stifling" of information relative to affording a person an opportunity to legitimate his possible offspring with out of the ordinary measures , violating one's person with intrusive tests, and his possible offspring with intrusive tests, despite proof relative information exists collateral to said intrusive and mandated secondary tests.(2nd Set of Blood Tests). With the "stifling" "trigger mechanism", being an unconstitutional Rule of a state court, specifically, "aimed at secrecy". (Rule 37(17)) despite baseless conclusions, by biased, at the time, "defendant State Supreme Court" regarding collateral effect caused by unconstitutional oppressive State Supreme Court Rule .

3. Does a constitutional protection exist to protect the most sacred of "ideas", and one of the most life altering and life changing occurrences a human being could possibly experience. Once the "idea" of bringing a child into this world, and all the ramifications that implies, does a person have a protected interest in that "idea", And does taking measures to insure the "idea" is safe and "materializes", into a person, require substantial protection?

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OPINIONS

The decision of the State Superior Court and the State Supreme Court are exhibits F. and G. in the appendix.

Jurisdiction of this court. The "decision" of the New Hampshire Supreme Court was rendered on February 03, 1999 (app. G) Culminating years of obstruction of Justice in multiple courts, wherefore this Court has jurisdiction to review judgements pursuant to 28 U.S.C. 1254 , 28 U.S.C. 1651(a), 2241, and 1254(a).

STATUES AND CONSTITUTION PROVISIONS INVOLVED

18 U.S.C. + 1503 provides:

Influencing or injuring officer or juror generally
Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States commissioner or other committing magistrate, in the discharge of his duty, or injures any such grand or petit juror in his person or

property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, commissioner, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

U.S. Const., Amendment I provides:

Congress shall make no law … abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

STATEMENT OF THE CASE

The state courts have shielded information salient to a complex legal situation in an effort to end an embarrassing abuse of discretion by state tribunals, namely the Superior Court, Manchester(N), Manchester, New Hampshire, The Supreme Court Professional Conduct Committee, The Judicial Conduct Committee of the State of New Hampshire, members of the New Hampshire Bar Association as well as members of the New Hampshire Federal District Court.

The petitioner would request the court to consider if this case meets the criteria for consideration under Rule 20 as an extraordinary writ authorized by 28 U.S.C.&1651(a). The petitioner feels this situation warrants the United State Supreme Courts use of its discretionary powers authorized by 28 U.S.C.& 1651(a). The petitioner does not feel adequate relief can or will be obtained in any other form or from any other court.

The petitioner asserts that the State Court has intentionally thwarted all efforts by the defendant to solicit any "discovery" throughout this six years of litigation in multiple courts in order to shield abuses by judicial officials and attorneys licensed to practice law in the State of New Hampshire.

Justice Hugo Black held that "The assumption that respect for the judiciary can by won by shielding judges [and attorneys] from published criticism wrongly appraises the character of American public opinion."

The petitioner asserts that the Supreme Court of New Hampshire has delayed and injured petitioner with the use of sword and shield tactics designed to burden and intimidate petitioner with regard to evidentiary matters in petitioner's civil action in state tribunals. The facts support that the rules found to be unconstitutional of the[1]

New Hampshire Supreme Court chilled and influenced adversely the positions of lower court rulings as related to obtaining any "discovery" in relation to the paternity of the child in question. The Supreme Court has essentially attempted to mandate my thought processes as relate to the paternity of the minor child.

The petitioner at this point would ask the Court to incorporate the fact that two separate sets of pictures were viewed by two judges in the Superior Court, with both unable to ascertain paternity, viewed two separate sets of pictures of the minor child. At this point blood tests were ordered to settle this issue once and for all. It is critical that the court examine Exhibit A in the appendix. This is a Non-Suit Motion filed by the intervenor in this case. In this Motion the Intervenor states quite clearly, "According to petitioner, no one apart from Mr. Brooks could be the biological father of Jordan. Intervenor denies this, as he and his wife (ex) were cohabitating approximately nine months before Jordan's birth and had intimate contact on several occasions over the ensuing months." The court needs to realize the impact of this statement by the intervenor on the "then petition" and the "current petitioner," which is one and the same. The state court has ruled that his Motion was withdrawn some time later. The petitioner asserts it's impossible to withdraw this assertion. This would be like withdrawing a nuclear bomb after it had detonated. The court needs to appreciate the impact of this motion as it relates to all discovery requests in the state tribunals as relates to the first set of blood information generated at the beginning of this child's life. The first document to prove a first set of blood information was obtained by the plaintiff and her pediatrician as relates to the petitioner is exhibit b in the appendix. The importance of this information as relate to the positions of the petitioner and validity of those positions has been undermined by the state of New Hampshire tribunals in refusing to acknowledge the documents even exist. The petitioner would ask the court to review the following information as it exists in the Notice of

Appeal as it relates to paternity information and scientific information.

Appeal from District Superior Court. Manchester(N) Supreme Court clerk's notice April 06, 1998. Case title, Erica U. Bodwell, Petitioner, Cross-Respondent and Mark Bodwell, Intervenor, Cross Respondent v. Troy E. Brooks, Defendant.

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The Supreme Court of New Hampshire asks that the following question be answered by the appellant;

Specific questions to be raised on appeal expressed, in terms and circumstances of the case, but without unnecessary detail.
The Following is the petitioner-appellant's response:

1. Whether the court's denial of the introduction of evidence and refusal to compel plaintiff to surrender evidentiary blood information is an abuse of discretion, and essentially sanctioning criminal submission of perjury in the above mentioned case, independent of novel standing issues.

2. Whether the Abo, Kell and Rh information available should be suppressed to shield the Plaintiff from their actions in the attempt to Non-Suit this case.
A. A joint report by the American Medical Association and the American Bar Association recommends the use of seven blood test systems, ABO, Rh, MNS, Kell, Duffy, Kidd, and HLS in relation to paternity actions, where paternity is a relevant issue.

3. Whether the courts can allow the plaintiffs to deny these tests were ever conducted with tangible proof the records do indeed exist. See pediatrician's routing slip in reference to Mr. Brooks' blood analysis.

The petitioner would ask the court if his right to support his claims has been violated by the state court in its refusal to allow a litigant to meet the prima facie case by acknowledging and admitting evidence. This is clearly an abuse of discretion by the New Hampshire Supreme Court as this is an issue of law. The denial of relevant evidence unjustly vitiates the ability of a party to defend his or her positions.

The petitioner would ask the court to examine exhibit C, in the appendix. The United States Court of Appeals No. 95-2129. The First Circuit states crystal clear in the 2nd paragraph of this partial ruling that, "His [Petitioners] efforts were thwarted by a rule prohibiting the disclosure of knowledge obtained during the course of attorney disciplinary proceedings." The petitioner would point out again that to date he has received zero discovery in any court in the State of New Hampshire. The petitioner would ask the court to examine exhibit D in the appendix. This former Assistant Attorney General, William C. McCallum, filed this motion as counsel for the Supreme Court and cites accident, mistake and misfortune as his reason for failing to meet deadlines imposed by the New Hampshire District Court. This was nothing more than an effort to further delay and burden the petitioner in his efforts to defend the Supreme Court of New Hampshire from their gross abuses of discretion as relate to multiple instances throughout this complex trail of litigation. The Supreme Courts counsel is currently in prison as a result of his dishonesty. This delay orchestrated by the State of New Hampshire counsel is indicative of how the courts have handled or not handled these cases as the law is suppose to require.

6. The petitioner would ask the court to incorporate the following
information in their analysis of this request for relief, and consider the application for relief authorized by 28 U.S.C.&1651(a), &2241, or 2254(a), I believe these are extraordinary circumstances.

The petitioner sought through various means to acquire information in relation to the minor child's paternity throughout this protracted legal battle. Another group of people in this state were also attempting to solicit records from the Supreme Court of New Hampshire in relation to the late Judge John Fairbanks. State Legislator Peter Burling attempted to have the Supreme Court ascertain if a confidentiality provision, Rule 37(17), was constitutional. His position was that it was not. The petitioner read Mr. Burling's brief and first learned about the Fairbanks scandal. The Opinion of the New Hampshire Supreme Court as related to the Burling Petition was essentially to evade the Fairbanks issue by not conferring Standing to Mr. Burling. Upon reading the Opinion the petitioner realized he had the Standing Mr. Burling did not have. Shortly thereafter the petitioner filed a Petition challenging this secrecy rule. The interference with all discovery matters at this state was solidified. The Superior Court heard arguments that I violated rules of the court and could not be trusted and I should not be allowed the answers to interrogatories submitted to the Bodwell's attorney by the Sullivan and Gregg law firm on my behalf. The submission dates for this very important information were never met and the court never required the answers to be submitted. This was a direct result or the Petition of Troy E. Brooks entered to the Supreme Court of New Hampshire by the petitioner. Interference by the Supreme Court of New Hampshire as related to their handling of the Fairbanks fiasco was further exposed by this Petition. The attorney of record of the Petition was also the author of legislation creating a study committee examining the failure of the court to take action against Judge Fairbanks. The common denominator in the Fairbanks and Bodwell vs. Brooks situations is an absolute failure of a judicial body that enforces the laws it was sworn to uphold.

I would ask the court to review exhibit E. in the appendix, Supplement to Notice of Appeal filed with the New Hampshire Supreme Court on October 13, 1 998. This was the last

installment by the petitioner as relates to these cases to the New Hampshire Supreme Court. The research done for this supplement was done by attorneys with a far better understanding of federal laws than this petitioner. The application of these laws in this current request for relief is justifiable.

Supplement in part:

The United States Supreme Court has spoken forcefully about perjury and other forms of obstruction of justice: "In this constitutional process of securing a witness' testimony, perjury has no place whatsoever. Perjured testimony is an obvious and flagrant affront to the basis concepts of judicial proceedings. Effective restraints against this type of egregious offense are therefore imperative. The insidious effects of perjury occur whether the case is civil or criminal or a combination of both." Only a few years ago, the United States Supreme Court considered a false statement made in a civil administrative proceeding. "False testimony in a formal proceeding is intolerable. We must neither reward nor condone such a 'flagrant affront' to the truth-seeking function of adversary proceedings. Perjury should be severely sanctioned in appropriate cases." Stated more simply, perjury is an obstruction of justice.

The petitioner would ask the Court to consider the "nexus relationship" as relates to the Burling Petition "agenda" and the petitioners allegations of being denied, on several occasions and in several different ways his constitutional rights to due process. The shadow cast on the New Hampshire Supreme Court as related to the handling of the Judge Fairbanks embezzlement scandal was without a doubt launched by the Burling Petition., and expounded on by the Brooks Petition and related to two separate sets of circumstances.

One of the "revelations" brought about by the Burling Petition- Brooks Petition and study committee created in the general court by the petitioners council was that the New Hampshire Supreme Court, specifically Justices William F. Bachelder, Justice David A. Brock and Justice Sherman D. Horton voted in a "star chamber " proceeding (against the recommendation of its own investigative committee), to take no official action against the late Justice John Fairbanks. Justice Bachelder was specially assigned to the Petition of Troy E. Brooks case where-upon he ruled the secrecy provisions were in violation of the petitioners first and fourteenth amendment rights. (But he ruled I was not really violated) The Court needs to incorporate the fact that at the same time the Superior Court was hearing arguments I was untrustworthy because I was violating unconstitutional rules. Again the petitioner would point out he has received zero "discovery" in any tribunal in the State of New Hampshire.

Consistent with the Seventh Circuit Court of Appeals law the Court has stated: " The law prohibiting the obstruction of justice, under Section 1503, is designed to prevent a miscarriage of justice resulting from corrupt methods". Additionally the Court of Appeals has stated: " The due administration of justice refers to the fair, impartial,

uncorrupted and unimpeded investigation, prosecution, disposition, or trial of any matter, civil or criminal, in the courts of the United States."

In United States v. Aguilar, Justice Rehnquist described Section 1503, [F]irst, it proscribes persons from endeavoring to influence, intimidate, or impede grand or petit jurors or court officers in the discharge of their duties; it then prohibits injuring grand or petit jurors in their person or property because of any verdict or indictment rendered by them; it then prohibits injury of any court officer, commissioner, or similar officer on account of the performance of their official duties; finally the "Omnibus Clause" serves as a catchall, prohibiting persons from endeavoring to influence, obstruct, or impede the due administration of justice."

515 U.S. 593, 598 (1995).

The Fifth Circuit recently described the "Omnibus Clause" as follows: "Obstruction of justice involves any attempt to impede the due administration of justice." United States v. Cihak, 137 F.3d 252, 262 (5th Cir. 1998).

The Seventh Circuit has approved a definition for the term "corruptly" in relation to Section 1503 which states: "Corruptly means to act with the purpose of obstructing justice. The United States is not required to prove that the defendant's only or even main purpose was to obstruct the due administration of justice. The government only has to establish that the defendant should have reasonably seen that the natural and probable consequences of his acts was the obstruction of justice. Intent may be inferred from all of the surrounding facts and circumstances. Any act, by any party, whether lawful or unlawful on its face, may violate Section 1503, if performed with a corrupt motive."

In Bodwell et.al. v. Troy Brooks see N.H.Superior Ct. Order on "Standing" p.13,14 the Court states: "It is important to Note that Erica Bodwell did not enforce support as to her ex-husband, but sought instead support from Troy Brooks. It is disingenuous for Erica Bodwell and Mark Bodwell to now lay claim to the child as theirs and to seek to prevent Troy Brooks from adjudicating his paternity to his [possible] illegitimate child. Lastly, the public policy concerns of the sanctity of marriage and the best interests of the child do not apply on the facts of this case. Apparently, the Bodwells' marriage was over at the time Erica Bodwell began her affair with Mr. Brooks. At any rate, a divorce followed, so that there was no marriage to protect with a legal fiction." In relation to the complex issues being forwarded by Mr. And Mrs. Bodwells' through council the Court went on to say: To deny this reality at this stage of the proceedings and allow, essentially, manipulation of the legal process to reach Ms. Bodwell's desired result calls the whole judicial system into question." Subsequent to the Standing Order blood tests were ordered to settle this issue once and for all. Subsequent to the Courts Order on the blood tests the defendant-petitioner produced information , which proved blood information was generated at the beginning of this child's life. This medical information is contained in the appendix on page 3. The Courts have obstructively ignored this information. With the full knowledge that a first set of blood information was available, Justice Richard E. Galway writes in relation to the thirty -day extension for blood testing, March 10, 1998. "The defendant was to pay for the testing of all three in the first instance, subject to possible reimbursement at the final hearing. The defendant has not complied with the requirement of the order, and on March 5, 1998, at the status conference advised the Court that the testing will be Harmful to Jordan." Justice Galway fails to mention the facts truthfully in this instance in that he was well aware that information relative to the paternity and blood characteristics of the parties involved existed. Again, the Court need only look at page 3 in the

appendix. Justice Galway goes on to state in this same order that: "This matter must finally be put to rest for the interests of the parties, the judicial system, and in the best interests of Jordan." March 10, 1998.

The Petitioner would ask the Court, in their analysis of this request for relief to incorporate a Stipulation that the petitioner was essentially blackmailed into agreeing to, pending resolution of Standing issue. The consequence of not submitting to this stipulation was forfeiture of all contact with the minor child. Stipulation, March 1, 1994 Bodwell et. al. v. Brooks 93-E-059 Superior Court, Manchester (N): No. 4. The foregoing stipulations are without prejudice to pending requests by petitioner to terminate visitation, by respondent to increase the frequency of visits, or concerning any other issue before the Court. This stipulation was signed by attorney Anne M. Edwards from the Mclane, Graf, Raulerson and Middleton law firm on behalf of the petitioner. Attorney John H. Vetne signed this document for the Bodwells.

The First Circuit has found that "Intent may make any otherwise innocent act criminal, if it is a step in a plot.'" United States v. Cintolo, 818 F.2d 980, 991 (1st Cir. 1987) (quoting Badders v. United States, 240, U.S. 391, 394 (1916). Therefore, it is not the means employed by the defendant that are specifically prohibited by the statute; instead, it is the defendant's corrupt endeavor which motivated the action. Otherwise lawful conduct, even acts undertaken by an attorney in the course of representing a client, can transgress 1503 if employed with the corrupt intent to accomplish that which the statute forbids. See Cintolo, 818F.2d at 992 ("means, though lawful in themselves, can cross the line of illegality if (i) employed with a corrupt motive, (ii) to hinder the due administration of justice, so long as (iii) the means have the capacity to obstruct."). The Court need only look at the Non-Suit Motion to establish an obstruction was taking place in this case. The paternity issue raised in the Non-Suit Motion was

characterized by the Superior Court as follows: "At this point the posture of the case changed dramatically". Its important that the Court realize that litigation directly related to the Non-Suit Motion and alleged false pleadings were being litigated by other State of New Hampshire tribunals And the First Circuit See, Brooks v. New Hampshire Supreme Court et .al., 80 F.3d 633 (1st Cir.1996) The portrayal of this important request for relief from the Circuit Court is evidenced in the exhibit from the First Circuit as related to the paternity questions exposed in this litigation, that is, the First Circuit litigation argued for petitioner by council. The characterization by the Circuit Court regarding paternity issues and incorporation of Section 1503 in this case were dismissed with issues concerning paternity as, ("not relevant here"). See page 4 in appendix.

The initial concerns of "anomalies" in this case were centered around the very important Worksheet for Preparing Certificate of Live Birth. This document is used as the basis for the official Birth Certificate for babies. The form states quite clearly in the middle of the form:

Please note the following as you complete this form:
According to N.H. Statutes RSA 126:24 "Any person shall be guilty of a Class B felony if he: willfully and knowingly makes any false statement in a certificate...or...willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record, or certificate."

I, the undersigned, hereby certify that I have read the above cited statute and that the information I have supplied is a true and correct representation of the facts to the best of my knowledge. Additionally, I understand that all information shall be kept confidential and used solely for administrative and statistical purposes and that refusal of a parent to provide

a social security number shall not be grounds for refusal to issue a birth certificate.

The next line in this worksheet for preparing Birth Certificate is signed by Erica Bodwell. Additionally a note is supplied after Mrs. Bodwells signature which states:

If mother is unwed and (1) Affidavit of paternity is prepared, then 21, 22 and 23 should be completed. (2) Affidavit of paternity is not prepared then item 21 will show "not stated." Item 22 and 23 will show NA (not applicable). In either case item 29a should be completed with No. If mother is divorced, the date of the final decree must be determined. If such date is more than 9 months from the date of birth then item 29a should be completed with-No: if less than 9 months, then item 29a should be completed-Yes (Same criteria for widows, RE; Date of husbands death.)

Line 29a asks Erica Bodwell the following:

Is Mother Married? (At Birth, Conception or any time between) (Yes or No)

Mrs. Bodwell answers this very important question, No. The Court needs to be aware that as an attorney Mrs. Bodwell would have a sophisticated understanding of the legal ramifications of this misrepresentation on line 29a of Work-sheet for Preparing Certificate of Live Birth. The procedures required for this worksheet were "stream-lined" by this misrepresentation by Mrs. Bodwell. To date, the required legal documents (affidavits of paternity) have never been required to correct the Birth Certificate.) The nexus relationship between the misrepresentation on the Worksheet for Preparing Birth Certificate, and the reasons why these defects were never corrected lie in the posture of the Bodwells as relate to the Non-Suit Motion in the appendix. As an attorney, Erica Bodwell was well aware of the potential dilemma she faced in

initiating a correction of the misrepresentation on line 29a and the very important affidavits of paternity required for a truthful representation. The Supreme Court Professional Conduct Committee accepted affidavits from two attororneys, Erica Bodwell and Linley Huey. In these statements they say that a nurse filled the Worksheet for Preparing the Certificate of live birth out and witnessed the nurse filling this document out in her own (the nurses) handwriting. The expert of handwriting disputed this with a "scientifically based finding", that in all probability, attorney Huey filled out the Worksheet for Preparing Certificate of Live Birth.

REASONS FOR GRANTING THE WRIT

POINT I

THE NEW HAMPSHIRE SUPREME COURTS DECISION TO IGNORE ACTIVITY PUNISHABLE UNDER THE OBSTRUCTION OF JUSTICE STATUTE, BY ATTORNEYS UNDERTAKEN WITH A CORRUPT MOTIVE CREATES A SITUATION WHERE THE COURT BECOME'S AN EXTENSION OF THE CORRUPTION AND AN ADVERSARY IN ADVERSARIAL PROCEEDINGS

The United States Supreme Court recognized in United States v. Lanier, 520 U.S. 259, 117 S. Ct. 1219 (1997), "general statements of the law are not inherently incapable of giving fair and clear warning . . . even though 'the very action in question has [not] previously been held unlawful.'" 117 S. Ct. at 1227 (quoting Anderson v. Creighton, 483 U.S. 635 , 640 (1987). In Hammerschmidt v. United States, 265 U.S. 182 (1924), the Supreme Court clarified the meaning of conspiracy to defraud:

To conspire to defraud the United States means . . . to interfere with or obstruct one of its lawful governmental functions by

deceit, craft or trickery, or at least by means that are dishonest. It is not necessary that the Government shall be subjected to property or pecuniary loss by the fraud, but only that its legitimate official action and purpose shall be defeated by misrepresentation, chicane, or the overreaching of those charged with carrying out the governmental intention.

The Second Circuit Court of Appeals has recognized that an indictment charging a conspiracy to defraud need only articulate with particularity "the essential nature of the alleged fraud." United States v. Helmsley, 941 F. 2d 71, 90-91 (2d Cir. 1992).

The Seventh Circuit Court of Appeals has held that:
To sustain a conviction for conspiracy to defraud, the record must demonstrate: (1) an agreement to accomplish an illegal objective against the United States; (2) one or overt acts in furtherance of the illegal purpose; and (3) an intent to commit the substantive offense- in these cases, the intent to obstruct justice. Intent, as well as the evidence concerning the relationship of the parties, their overt acts, and the totality of their conduct. United States v. Marren, 890 F.2d 924, 933 (7th Cir. 1989).

The United States Supreme Court held in Stanley v. Illinois, 405 U.S. 645, 92 S. Ct. 1208, 31 L.Ed.2d.2d 551 (1972) that the father of an illegitimate child has a constitutionally protected interest in his parent-child relationship. Id. At 648-51. The Court also held that the right to a hearing to determine parental fitness extended to all parties in a custodial challenge. Id at 650. Unwed fathers have a right to a hearing before the removal of their children. See generally Hamilton, The Unwed Father and the Right to Know of His Child's Existence, 76 KY. L.J. 949,961 (1987-88). The termination of rights in this case by the Superior Court and upheld by the Supreme Court puts the "cart before the horse" in the first instance, as the petitioner, as a result of the Bodwells and Non-suit motions is not clear on paternity of the child in question.

The Court need only review In Matter of Adoption of Doe v. Roe, 543 So.2d 741, (1989) cert. Denied, 493 U.S. 964, 110 S. Ct. 405, 107 L.Ed.2d 371 (1989), to see the significance of the un-recognized documents, one of which is exhibit b in the appendix, blood information. In the above cited case the court addressed the issue of pre-birth conduct of the father . In the Bodwell et.al. v. Brooks case the "presumed biological father", as plead in Non-Suit Motion , took all efforts to cast himself as the father in fact, from start to finish. Its important to understand that in between the start and finish a divorce occurred . This is relative once again to the Work-sheet for Preparing Certificate of Live Birth and the mis-representations contained within . The Court in Doe v. Roe held that because prenatal care of the pregnant mother and unborn child is critical to the well-being of the child and of society, the biological father, wed or unwed, has a responsibility to provide support during the pre-birth period. In summary, the issue of abandonment turns on the question of whether the parent has evinced a settled purpose to assume parental duties. Providing pre-birth support to the unborn child is a parental duty. Id. At 745-46. The petitioner would ask the court to incorporate the effect of the termination stipulation which he eluded to earlier as relates to discovery matters and the Non-Suit Motion. The denial by the courts to mandate the production of these documents was a direct result of the Petition of Troy. Brooks and the characterization of the current petitioner as un-trustworthy by opposing council to the court for violating a rule of the court. As stated earlier this Rule 37(17) was found to violate my 1st and 14th amendment rights. The post -rulings of the courts , before , during and after the admitted violation of my rights, regarding due processes have all been the same and have produced zero in the way of "discovery."

POINT II

CERTIORARI SHOULD BE GRANTED TO DETERMINE IF THE STATE COURTS HAVE ABUSED THEIR DISCRETION BY SANTIONING CRIMINAL ACTIVITIES BY ATTORNEYS, THUS UNDERMINING AND ABOLISHING THE "INTENT" OF THE FIRST AMENDMENT AND THE RULE OF LAW

In Caban v. Mohammed, 441 U.S. 380, 99 S. Ct. 1760, 60 L.Ed.2d 297 (1979) the United States Supreme Court struck down a statute that denied the unwed biological father, who had established a relationship with the children, the opportunity to block an adoption but afforded the right to the mother. Id. at 381. The court developed a rule that where the father has assumed parental responsibilities for the child and maintains a continuing relationship with the child, then he must be given the same rights in adoption proceeding as the mother.Id. at 392. The court asserted that when an unwed father demonstrates a full commitment to the responsibilities of parenthood by "coming forward to participate in the rearing of his child" his interest in personal contact with his child acquires substantial protection under the due process clause. Id. at 392. The court distinguishes between unwed fathers who assert his right and one who does not. Id. at 392.

In re Adoption of Baby E.A.W. v. J.S.W.., 647 So.2d 918 (1995) the Supreme Court of Florida stated that a parent's fundamental liberty interest in care, custody, and management of their children is not absolute. Substantial due process protection accorded to parents, pursuant to fundamental liberty interest in care, custody, and management of their children, attaches to unwed fathers only when the unwed father demonstrates full commitment to responsibilities of

parenthood by coming forward to participate in raising his child. Id. at 923.

Assuming arguendo that the misrepresentations on the Worksheet for Preparing Certificate of Live Birth were intentionally manipulated by two attorney's, and both with an acute understanding of the law and legal documents, the application of Section 1503 proscribes that:

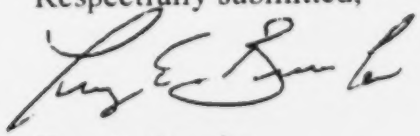
The Government must demonstrate that the defendant knew of a pending judicial or grand jury proceeding and intended to impede its administration. U.S. v. Aguilar, ___U.S.___,115 S.Ct. 2357,2362 (1995);U.S. v. Maloney, 71 F.3d. 645, 656 (7thCir. 1995); U.S. v. Bucey, at 1314. It is not sufficient that there be an intent to influence an ancillary proceeding, such as an investigation independent of a court's or grand jury's authority. Aguilar, 115 S. Ct. At 2362. However, investigations undertaken with the intention of presenting evidence before a grand jury are sufficient to constitute "the due administration of justice" under 1503. Maloney, at 657. A "nexas relationship" must be shown; i.e. the acts alleged must have a relationship in time, causation, or logic with the judicial or grand jury proceedings. Aguilar, 115S.Ct. at 2362. "In other words, the endeavor must have the 'natural and probable effect' of interfering with the due administration of justice." Aguilar, 115 S.Ct. at 2362. A defendant's actions need not be successful in order to be prosecuted under 1503. All that is required is that the defendant has knowledge or notice that his or her actions are likely to affect the just administration of the subject proceedings. Aguilar, 115 S.Ct. at 2362; Bucey, at 1314; U.S. v. Machi, 811 F.2d. 991, 997-98. Section 1503 has both and "intent" element and a "means" element; "[I]t makes conduct punishable where the defendant acts with an intent to obstruct justice, and in a manner that is likely to obstruct justice, but is foiled in some way." Aguilar, 115 S. Ct. at 2563.

CONCLUSION

The distinctions between criminal wrong doing in a civil case , by attorneys and others , in the case before the Court lends great opportunity for the Court to develop a better understanding of the human consequence of mis-representations to official governmental bodies when people's rights get mired in a web of "legal deceit" and trickery designed for nothing more than a pre-meditated manipulation of the legal system. Some in the legal profession characterize the schemes and trickery in defending clients as "acting aggressively", on their behalf. This is not aggressive defending at all , its aggressive disregard for the truth seeking function of adversarial proceedings.

For the reasons stated, the petition for a writ of certiorari should be granted.

Respectfully submitted,



Aug. 2,

Troy E. Brooks
Box 9D Cabana Drive
Peterbourgh, N.H. 03458
(603) 924-3560

APPENDIX

Supreme Court, U.S.
FILED

No. 99-827 MAY 24 1999

OFFICE OF THE CLERK

In The

Supreme Court of the United States

October Term, 1999

Troy E. Brooks

v.

Erica and Mark Bodwell

On Petition for Writ of Certiorari
To The New Hampshire Supreme Court

PETITION FOR WRIT OF CERTIORARI

APPENDIX

Troy E. Brooks, Pro Se
Box 9D, Cabana Drive
Peterborough NH 03458
(603) 924-3560

15pp

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

HILLSBOROUGH, SS. SEPTEMBER 1993
Docket No. 93-E-059

INTERVENOR'S REPLICATION
TO RESPONDENT'S OBJECTION TO MOTION TO DISMISS
AND VOLUNTARY NON-SUIT

NOW COMES the Intervenor, Mark Bodwell, by counsel, and replies to Respondent Troy E. Brooks' Objection to Motion To Dismiss and Motion For Voluntary Nonsuit. Intervenor notes that Respondent has apparently elected not to file his own affirmative claim of paternity as contemplated in the Stipulations signed by the parties on August 18, 1993, but rather has chosen to resist Petitioner's decision not to pursue hers. Should the Court choose to deny Petitioner's Motion to Dismiss and treat Respondent's recent pleadings as an affirmative claim of paternity, Intervenor asks the Court's consideration of the following reply to Respondent's "claim of paternity.":

2. In Paragraph 5, Respondent states that, according to Petitioner, no one apart from Mr. Brooks could be the biological father of Jordan. Intervenor denies this, and he and his wife were cohabiting approximately nine months before Jordan's birth, and had intimate contact on several occasions over the ensuing months.

Respectfully Submitted,

MARK P. BODWELL
by his attorney

"s/_____"
Bruce D. Simpson
RR2 Box 1144
New Ipswich, NH 03071
Tel. 603/924-4184

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing has been forwarded this day to Ann M. Edwards, Edq., Margaret Hall, Edq., and John Vetne, Esq.

"s/_____"
Bruce D. Simpson

NAME Brooks TROY

#

DOB 1-20-61

PHYSICIAN Seigel

ROOM

ROUTINE	TODAY	STAT	PRE-OP	OP
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DIAGNOSIS

TO BE USED	DATE	TIME

	PACKED CELLS		PLATELETS	25% ALBUMIN	OTHER
	FROZ. PLASMA		RECON. RBC	5% ALBUMIN	

SEQ. # | DONOR # | ABO | Rh | EXP.

MOHADNOCK COMMUNITY HOSPITAL L-17

PATIENT	
ABO	
Rh (D)	
ANTIBODY SCREEN INDIRECT COOMBS	
DIRECT COOMBS	
CROSS MATCH	

DATE DONE 7/5 | TECH DN

RELEASED FROM BLOOD BANK		PRE-TRANSFUSION CHECK-COMPLETE BEFORE STARTING TRANSFUSION
DATE	TIME	WE CERTIFY THAT BEFORE STARTING TRANSFUSION WE HAVE CHECKED THE TRANSFUSION NUMBERS APPEARING ON (1) RECIPIENTS TRANSFUSION BRACELET (2) UNIT TO BE TRANSFUSED AND (3) BLOOD COMPATIBILITY ALL NUMBERS ARE IN AGREEMENT
TAKEN BY		R.N. SIGNATURE / R.N. #2 VERIFICATION

TRANSFUSION RECORD

DATE & TIME STARTED	TEMP BEFORE	TEMP (15 MIN)	TEMP AFTER	AMOUNT GIVEN
DATE & TIME TERMINATED	B/P BEFORE	B/P (15 MIN)	B/P AFTER	R.N. SIGNATURE R.N.

TRANSFUSION REACTION ☐ YES ☐ NO (IF YES, REFER TO TRANSFUSION REACTION FORM)

FORM H-5

LABORATORY REPORTS

3

BEST AVAILABLE

concerning paternity (not relevant here), Brooks filed complaints with the New Hampshire Supreme Court Professional Conduct Committee (the Committee) against three attorneys, including Erica Bodwell, accusing them of flouting various ethical canons in their handling of the paternity suit. The Committee dismissed the complaints after conducting an investigation.

Brooks then sought to put to use in the paternity suit both the fact that a disciplinary complaint had been instituted against Erica Bodwell and certain evidence to which he became privy during the course of the Committee's investigation. His efforts were thwarted by a rule prohibiting the disclosure of knowledge obtained during the course of attorney disciplinary proceedings. See N.H. Sup. Ct. R. 37 (17) (a) (1984).[1] Brooks retorted by filing

[1] The rule in effect at the time, with exceptions not relevant here, provided that all records and proceedings involving allegations of attorney misconduct "shall be confidential and shall not be disclosed." N. H. Sup. Ct. R. 37 (17) (a). The same rule also provided that "participants in the proceedings shall conduct themselves so as to maintain the confidentiality mandated by this rule," and warned that "[v]iolation of this duty shall constitute

E COPY

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

TROY BROOKS
Plaintiff
v. U.S. Dist. Ct., No. 95-166-M
N.H. SUPREME COURT, ET AL.,
Defendants

DEFENDANTS' MOTION TO ALLOW LATE FILING OF RESPONSIVE PLEADING

NOW COME the State Defendants, New Hampshire Supreme Court, et al., by and through counsel, the Office of the Attorney General, and move to allow late filing of their answer to the Plaintiff's complaint, stating as follows:

1. Defendants were brought into this action by waiver of service under F.R. Civ. Prac. 4 (d) and should have calendared it accordingly. Early on in this action, Magistrate Judge Barry entertained a petition for injunctive relief which reflected in whole or in very large parts the claims in the case in chief.

2. Through accident, mistake, and misfortune, the concentration on the injunctive relief caused Defendants' counsel and counsel's staff erroneously to fail to calendar an answer or responsive pleading to the case-in-cheif.

3. Defendants' answer or responsive pleading was due on or about Friday, August 11, 1995. Upon information and belief, Plaintiff did not contact Defendant's counsel about the filing of a responsive pleading but proceeded ahead with the Motion For Default presently before the Court. See Local Rule 11.

4. Only upon receipt of the default motion did Defendants' counsel realize the error and has filed a motion to dismiss the same day.

5. Local Rule 11: Plaintiff's counsel has been contacted, and his assent requested. The Defendants had not heard back from their counsel as of the date and time of this filing and assume he does not assent. No memorandum of law is necessary because this is a procedural and fact-based pleading only. This pleading has been served upon all parties of record. No hearing is requested on this motion.

WHEREFORE, the State Defendants, New Hampshire Supreme Court, et al., respectfully request that this Honorable Court:

A. Allow the filing of their responsive pleading.

B. Grant such other and further relief as may be just and equitable.

Respectfully submitted,
NEW HAMPSHIRE
SUPREME COURT, ET AL.,
By and through counsel,
Jeffrey R. Howard
Attorney General

"s/_____"
William C. McCallum, No. 8746
Assistant Attorney General
Department of Justice Building
33 Capitol Street
Concord, NH 03301
(603) 271-3658

August 17, 1995

I hereby certify that a copy of the foregoing with attachments, if any, was transmitted this day to opposing party or counsel, if so represented.

STATE OF NEW HAMPSHIRE

SUPREME COURT

Bodwell v. Brooks

MEMORANDUM

INTRODUCTION

The United States Supreme Court has spoken forcefully about perjury and other forms of obstruction of justice: In this constitutional process of securing a witness' testimony, perjury has no place whatever. Perjured testimony is an obvious and flagrant affront to the basic concepts of judicial proceedings. Effective restraints against this type of egregious offence are therefore imperative.

The insidious effects of perjury occur whether the case is civil or criminal or a combination of both. Only a few years ago, the United States Supreme Court considered a false statement made in a civil administrative proceeding: "False testimony in a formal proceeding is intolerable. We must neither reward or condone such a 'flagrant affront' to the truth seeking function of adversary proceedings. . . . Perjury should be severely sanctioned in appropriate cases." Stated more simply, "[p]erjury is an obstruction of justice."

The appellant alleges that parties in the case before the bar are guilty of subornation of perjury and obstruction of justice and states as follows: The term "obstruction of justice" usually refers to violations of 18 U.S.C. 1503, the "Omnibus Obstruction Provision," which prohibits the intimidation and retaliation against grant and petit jurors and judicial officers and contains a catch-all clause making it unlawful to "influence, obstruct, or impede the due administration of justice." It may also refer to 18 U.S.C. 1512, which proscribes

intimidating, threatening, or corruptly persuading, through deceptive conduct, a person in connection with an official proceeding.

For a conviction under 1503, the government must prove that there was a pending judicial proceeding, that the defendants knew of the proceedings, and that the defendants acted "corruptly" with the specific intent to obstruct or interfere with the proceeding or due administration of justice. See, e.g., United States v. Bucey, 876 F.2d 1297, 1314 (7th Cir. 1989); United States v. Smith, 729 F. Supp. 1380, 1383-84 (D.D.C. 1990). Thus, if a defendant is unaware of a proceeding he or she cannot be said to have obstructed the proceeding. This "unaware scenario" of proceedings is factually impossible in this case before the New Hampshire Supreme Court. Perhaps more significant is the "acting corruptly" element of the offence. Some courts have defined this term as acting with "evil and wicked purposes." See United States v. Banks, 942 F.2d 1576 1578 (11th Cir. 1991). Four federal courts of appeals have held that to "act corruptly" under the statute, a defendant must have acted with the specific intent to obstruct justice. See

United States v. Moon, 718 F.2d 1219, 1236 (2d Cir. 1983);
United States v. Bashaw, 982, F2d 168, 170 (6th Cir. 1992);
United States v. Anderson, 798 F.2d 919, 928 (7th Cir. 1986);
United States v. Rasheed, 663, F.2d 843, 847 (9th Cir. 1981).

That is, it is not enough to prove that the defendants know that a result of there actions might be to impede the administration of justice, if that was not there intent. The appellees would appear from the evidence in there Non-Suit Motions to meet the "specific intent" criteria as relates to Section 1512, in which the government must prove the intent was to influence corruptly, proceeding. Or in this specific case, proceedings. 1512 does not apply to defendants' innocent remarks or other acts unintended to affect a proceeding. The courts thus far have treated the intervenors assertions regarding biological paternity in Non-Suit Motion as a casual assertion. As well as the affidavits to the Professional Conduct Committee which assert an "author of birth record nurse" who I allege does not exist,

provided that the attorney cited as the probable author of birth record by an expert of handwriting does not also hold a degree in nursing. This is improbable as she is also an affiant in the same scheme. See applicable exhibits again. Moreover, it is important to define the terms "corruptly persuade" and "misleading conduct," as used in 1512. The statute itself explains that "corruptly persuades" does not include "conduct which would be misleading but for a lack of a state of mind." 18 U.S.C. 1515 (a) (6). It is also clear from the case-law that "misleading conduct" does not cover scenarios where the defendant urged a witness to give false testimony without resorting to coercive or deceptive conduct. See, e.g., United States v. Kulczyk, 931 F.2d 542, 547 (9th Cir. 1991) (no attempt to mislead witnesses knew defendant was asking them to lie); United States v. King, 762 F.2d 232, 237 (2d Cir. 1985) (defendant who attempts to persuade witness to lie but not to mislead tries of fact does not violate 1512).

Subornation of perjury is addressed in 18 U.S.C. 1622. The elements of subornation are that the defendant must have persuaded another to perjure him or herself, and the witness must have actually committed perjury. See, e.g. United States v. Hairston, 46 F.3d 361, 376 (4th Cir. 1959), rev'd on other grounds, 361 U.S. 529 (1960). If actual perjury does not occur, there is simply no subornation. 1622 requires that the defendant know that the testimony of witness, or intervenor will be perjurious-i.e., knowing and willful procurement of false testimony is a key element of subornation of perjury. See Rosen v. NLRB, 735 F.2d 564, 575 n.19 (D.C. Cir. 1984) ("a necessary predicate of the charge of subornation of perjury is the suborner's belief that the testimony sought is in fact false"). Again the court must look at the evidence in this notice of appeal, specifically the divorce libel and non-suit Motion authored by the intervenor. The documents clearly illustrate that the criteria for serious violations of both State and Federal law have unhappily been met by the parties in question.

In Summary

The Supreme Court of New Hampshire has an obligation to all the citizens of this State to enforce the laws of our land. Thus far in this litigants experience the court has become a willing obstacle to due process and justice.

Wherefore the defendant prays:

1. Impose the proper and just remedial measures as the laws of the United States dictate.

2. Grant any and all relief which is just and equitable.

Very Sincerely,

"s/_____"
Troy E. Brooks

October 13, 1998

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS. SUPERIOR COURT
NORTHERN DISTRICT

ERICA BODWELL
V.
TROY BROOKS

93-E-059

ORDER

On March 5, 1998, a status conference was scheduled in the Hillsborough County Superior Court in Manchester regarding this case before this Judge, who was specially assigned to this case.

This is a civil/equity action for paternity, custody, support and protection. By order of March 30, 1993, the Court found that the defendant acknowledged paternity. In the petition of the defendant dated July 7, 1995, and motions in October of 1995, the defendant, through his motions, acknowledges paternity.

The initial pleadings of the plaintiff acknowledge the defendant as the natural father of the child, and that acknowledgment continued to the hearing on March 5, 1998.

The defendant requests counsel be appointed for him in this case at the expense of the State. This request was previously filed by the defendant, and by order of September 25, 1995, this was denied by Barry J. There was no request for rehearing and no appeal from this order was taken. Since the Court finds no compelling support for the defendant's request, having been presented to the Court and the issue having been determined, the subsequent motion for appointment of counsel is denied.

The defendant filed a motion for blood tests on June 3, 1997.

That motion was denied, and, subsequently, the defendant filed a motion to reconsider. The master reconsidered the determination and ordered the defendant, the mother and the minor child to submit to paternity testing at Fairfax Identity Laboratories. The defendant was provided with the phone number and advised to schedule an appointment and submit to paternity testing within 30 days.

The plaintiff was to arrange to have herself and Jordan similarly tested when the defendant had his completed.

The defendant was to pay for the testing of all three in the first instance, subject to possible reimbursement at the final hearing.

The defendant has not complied with the requirement of the order, and on March 5, 1998, at the status conference advised the Court that the testing will be harmful to Jordan, so that he does not wish to do this. Neither the defendant's change of position, nor the claim of harm to Jordan were found credible to the Court.

The Court will allow 30 additional days for the completion of the testing as ordered in August 1997. If those tests are not completed in accordance with the order, the issue of paternity is to be determined in accordance with the pleadings and the acknowledgments of the parties, in that a final determination will be issued that Troy Brooks is the natural father of Jordan. This matter must finally be put to rest for the interests of the parties, the judicial system, and in the best interest of Jordan.

This matter is to be rescheduled by the Clerk of Court in May 1998 so that the records of the paternity testing will be reviewed and support, visitation and custody issues, as well as payment of the guardian ad litem's fees, will be addressed.

The guardian ad litem, at her request, may conclude her activities unless and until a further request from the Court is made.

So ordered.

March 10, 1998

"s/_____"
Richard E. Galway
Presiding Justice

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 98-271, Erica U. Bodwell v. Troy Brooks, the court upon February 23, 1999, made the following order:

Defendant's motion for waiver of filing fee is granted. Notice of appeal is declined. See Rule 7 (1).

Distribution:

Clerk, Hillsborough County (N) Superior Court 93-E-059
John Vetne, Esquire
Mr. Troy Brooks
Debra Owen Stanley, Esquire
Honorable Richard E. Galway
Donna K. Nadeau, Supreme Court
File

Howard J. Zibel,
Clerk